

ENTERED

January 19, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISIONSTATE OF TEXAS, ET AL.,
Plaintiffs,

V.

UNITED STATES OF AMERICA, ET AL.,
Defendants.§
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CIVIL NO. B-14-254

ORDER

The Court denied the Plaintiff-Intervenors' Motion to Intervene [Doc. No. 392] from the bench. The Plaintiff-Intervenors¹ filed two notices of appeal to the United States Court of Appeals for the Fifth Circuit [Doc. Nos. 423, 425] regarding the denial of their Motion to Intervene. A notice of non-compliance issued [Doc No. 427] as the Plaintiff-Intervenors did not pay the fee necessary for appeal. The Plaintiff-Intervenors have filed a motion to proceed *in forma pauperis* [Doc. No. 429].


A prisoner seeking to bring a civil action or appeal a judgment in a civil action without prepayment of fees must follow 28 U.S.C. § 1915 as amended by the Prison Litigation Reform Act. First, the prisoner must file an affidavit listing his or her assets. 28 U.S.C. § 1915(a)(1). The affidavit must state the nature of the appeal and the affiant's belief that he or she is entitled to redress on appeal. *Id.* The prisoner must also submit a certified copy of his or her prison trust fund account (or institutional equivalent) for the six-month period immediately preceding the filing of the notice of appeal. *Id.* § 1915(a)(2). This certified copy must be obtained from the appropriate official of each prison at which the prisoner is or was confined. *Id.*

¹ Only two out of the four names of the Plaintiff-Intervenors listed on the Motion to Intervene appear on the Motion to proceed *in forma pauperis*. Nevertheless, the statements of the two individuals who filed the Motion to proceed *in forma pauperis*, Rhonda Ann Fleming and Robin Clarice Parezanin, make it clear that their filing represents all four of the Plaintiff-Intervenors. Consequently, the Court will proceed with that understanding.

A court may dismiss the motion to proceed *in forma pauperis* if the prisoner's allegation of poverty is untrue. *Id.* § 1915(e)(2)(A). A court may also dismiss the motion if the appeal is (1) frivolous or malicious, (2) fails to state a claim on which relief may be granted, or (3) seeks monetary relief from a defendant immune to such relief. *Id.* § 1915(e)(2)(B). Should the timely motion to proceed *in forma pauperis* be denied by a court, the movant may appeal the ruling by paying an initial partial fee of the \$505.00 total filing fee as calculated per 28 U.S.C. § 1915(b)(2). After payment of the initial partial filing fee, the appellant will be required to make monthly payments of 20% of the preceding month's income credited to appellant's prison account each time the amount in appellant's account exceeds \$10 until appellant has paid the total filing fee. *Id.* § 1915(b)(2).

The Plaintiff-Intervenors have until February 17, 2017 to provide both the (1) the affidavits with the above-listed requirements and (2) the certified copies of their trust accounts (or institutional equivalents) for the six-month period immediately preceding the filing of the Plaintiff-Intervenors' second Notice of Appeal [Doc. No. 425]. After February 17, 2017, the Court will rule on Plaintiff-Intervenors' motion to proceed *in forma pauperis*.

Signed this 19th day of January, 2016.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', is written over a horizontal line.

Andrew S. Hanen
United States District Judge